

REMARKS

Upon entry of the amendments herein, claims 1 – 5 and 7 - 20 remain pending in the application. In particular, Applicants have amended claims 2, 3 and 5. Applicants believe that the amendments add no new matter to the application.

I. Commonly-Owned §102(e) Reference Excluded As Prior Art Under §103

Applicants respectfully submit that, upon the filing of this Continued Prosecution Application, U.S. Patent No. 6,314,470 to Ward *et al.* (“the ‘470 patent”) is now excluded as prior art under 35 U.S.C. §103. As stated in MPEP 706.02(I)(1), the mere filing of a continuing application after November 29, 1999, with the required evidence of common ownership, will serve to exclude commonly-owned 35 U.S.C. §102(e) prior art that was applied, or could have been applied, in a rejection under 35 U.S.C. §103 in the parent application.

Applicants submit that the present application and the ‘470 patent were, at the time the present invention was made, both owned by Hewlett-Packard Company. The Examiner may confirm that the present application and the ‘470 patent were commonly-assigned at the time the present application was made by checking the records maintained at the Patent & Trademark Office and referring to the Assignment filed in the present application. Therefore, because the ‘470 patent is only available as prior art under §102(e) and because the present application and the ‘470 patent were both owned by Hewlett-Packard Company at the time the present invention was made, the ‘470 patent is disqualified as prior art under §103. Accordingly, rejection of claims 1 – 5 and 7 – 20 should be withdrawn and all pending claims be allowed.

Furthermore, Applicants respectfully submit that any new rejection based on new prior art cannot be made final.

II. Conclusions

Applicants respectfully assert that claims 1 – 5 and 7 – 20 clearly and patentably define over all prior art of record. Accordingly, favorable consideration and allowance of the present application are hereby courteously requested. In this regard, a telephonic conference to expedite the examination of this matter is respectfully requested. The Examiner is invited to call, at his/her earliest convenience, the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Washington D.C. 20231, on 5/9/03.


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